IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5713 of 2001

For Approval and Signature:

HON'BLE MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DAMYANTIBEN RATILAL KALYANI

Versus

CHIEF CONTROLLING REVENUE AUTHORITY & ANR.

Appearance:

1. Special Civil Application No. 5713 of 2001

MR SANDEEP N BHATT for the Petitioner

MR NAGESH SOOD, AGP for Respondents Nos. 1-2

CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date of decision: 17/02/2004

ORAL JUDGEMENT

RULE returnable today.

Learned AGP Mr.Sood waives service of rule.

By registered sale deed dated 7th October, 1994 the petitioner had purchased a property situated at Rajkot for a sum of Rs.1,98,000=00. Accordingly, the petitioner paid the stamp duty of Rs.20,000=00.

The Deputy Collector, Stamp Duty Valuation, Rajkot was, however, of the opinion that the said instrument (i.e. the sale deed) did not reflect true market value of the property. He, in exercise of power conferred by Section 32-A of the Bombay Stamp Act, 1958, determined the market value of the said property to be Rs.7,43,651=00.

On 18th August, 1996 a notice was issued to the petitioner calling upon him why the the market value of the property should not be taken as Rs.7,43,651=00; why the petitioner should not pay the deficient stamp duty of Rs.54,370=00 and a fine of Rs.250=00.

After hearing the petitioner, by order dated 28th April, 1997, the market value of the property was determined at Rs.7,43,651=00. The petitioner was called upon to pay the amount of deficit in stamp duty and the fine to the tune of Rs.54,620=00. Feeling aggrieved, the petitioner applied for a Reference to the Chief Controlling Revenue Authority under Section 32-B of the Act. The said Reference has been rejected by impugned order dated 13th October, 1999. Feeling aggrieved, the petitioner has preferred the present petition.

It cannot be gainsaid that the Chief Controlling Revenue Authority, exercising power of Reference under Section 32-C of the Act, and the Deputy Collector, Stamp Duty Valuation, exercising power under Section 32-A of the Act, are performing quasi-judicial functions and are required to record reasons for their decision.

In the present case, both the Authorities below have failed to record the contentions raised by the petitioner. Nor the said Authorities have recorded reasons in support of their decisions. The Deputy Collector, Stamp Duty Valuation has, in the notice dated 18th August, 1996, not stated how the property had been valued at Rs.7,43,651=00. Apparently he had relied upon some other documents for determination of the market value of the property purchased by the petitioner. If at all any material had been relied upon for such determination the petitioner had not been given copy of such material nor the petitioner was given opportunity to

contradict such material or to produce any evidence in rebuttal. Thus, the impugned order has been made in violation of principles of natural justice and fair play. The impugned order, therefore, requires to be quashed and set aside.

Petition is allowed. The impugned order dated 13th October, 1999 made by the Chief Controlling Revenue Authority in Stamp Appeal No.32-B 98/99 and the order dated 28th April, 1997 made by the Deputy Collector, Stamp Duty Valuation, Rajkot are quashed and set aside. Rule is made absolute accordingly. The parties shall bear their own costs.

It is clarified that the Deputy Collector, Stamp Duty Valuation, Rajkot shall be at liberty to determine the market value of the property in question pursuant to the notice dated 18th August, 1996. However, he shall furnish all the materials relied upon by him to the petitioner. The petitioner shall also be entitled to make submissions in respect of such materials and to produce necessary evidence in rebuttal. The Deputy Collector shall record the contentions that may be raised by the petitioner and also the reasons in support of the decision.

(Ms. R.M.Doshit, J.)

/sakkaf